
By: **Senator Green**

Introduced and read first time: February 4, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Dual Jurisdiction - Juvenile Offenders**

3 FOR the purpose of authorizing a court that has jurisdiction over certain criminal
4 cases involving a juvenile to simultaneously impose a juvenile and an adult
5 sentence; authorizing the court to order the child to complete the juvenile
6 disposition and to suspend the adult sentence under certain circumstances;
7 requiring the court to conduct a hearing under certain circumstances;
8 authorizing certain penalties if a child is found to have committed a violation or
9 offense while under the court's jurisdiction; authorizing the Department of
10 Juvenile Services to petition a court for a transfer of custody of certain children
11 under certain circumstances; requiring the Department to petition a court for a
12 hearing before the Department releases certain children; and generally relating
13 to juvenile offenders.

14 BY adding to
15 Article - Criminal Procedure
16 Section 4-202.3
17 Annotated Code of Maryland
18 (2001 Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Criminal Procedure**

22 4-202.3.

23 (A) IN A CRIMINAL PROSECUTION INVOLVING A CHILD THAT RESULTS IN A
24 CONVICTION OR A GUILTY PLEA BASED ON AN ACT THAT IS EXCLUDED FROM
25 JUVENILE COURT JURISDICTION UNDER § 3-8A-03(D) OF THE COURTS ARTICLE OR IN
26 WHICH JUVENILE COURT JURISDICTION IS WAIVED UNDER § 3-8A-06 OF THE COURTS
27 ARTICLE, A COURT EXERCISING CRIMINAL JURISDICTION MAY, AT THE SAME TIME:

28 (1) MAKE ANY DISPOSITION LISTED IN § 3-8A-19 OF THE COURTS
29 ARTICLE; AND

1 (2) IMPOSE AN ADULT CRIMINAL SENTENCE.

2 (B) IF THE COURT IMPOSES BOTH A DISPOSITION AND A SENTENCE UNDER
3 SUBSECTION (A) OF THIS SECTION, THE COURT MAY ORDER THE CHILD TO
4 COMPLETE THE JUVENILE DISPOSITION AND SUSPEND THE ADULT CRIMINAL
5 SENTENCE, SUBJECT TO CONDITIONS ESTABLISHED BY THE COURT.

6 (C) IF THE COURT ORDERS THE CHILD TO COMPLETE THE JUVENILE
7 DISPOSITION UNDER SUBSECTION (B) OF THIS SECTION AND THE CHILD COMMITS A
8 NEW OFFENSE WHILE SERVING THE JUVENILE DISPOSITION OR VIOLATES A
9 CONDITION OF THE SUSPENDED ADULT SENTENCE, THE COURT MAY:

10 (1) CONTINUE THE JUVENILE DISPOSITION;

11 (2) REVOKE THE JUVENILE DISPOSITION;

12 (3) IMPOSE THE ADULT CRIMINAL SENTENCE; OR

13 (4) ENTER ANY ORDER IT CONSIDERS APPROPRIATE.

14 (D) (1) IF A CHILD RECEIVES A JUVENILE DISPOSITION AND A SUSPENDED
15 SENTENCE UNDER SUBSECTION (B) OF THIS SECTION AND THE DEPARTMENT OF
16 JUVENILE SERVICES DETERMINES THAT THE DEPARTMENT OF JUVENILE SERVICES
17 CANNOT MEET THE CHILD'S NEEDS, THE DEPARTMENT OF JUVENILE SERVICES MAY
18 PETITION THE COURT FOR A TRANSFER OF CUSTODY OF THE CHILD.

19 (2) IF THE DEPARTMENT OF JUVENILE SERVICES PETITIONS THE COURT
20 FOR A TRANSFER OF CUSTODY, THE COURT SHALL HOLD A HEARING AND MAY:

21 (I) REVOKE THE SUSPENSION AND DIRECT THAT THE CHILD BE
22 TAKEN INTO IMMEDIATE CUSTODY OF THE DIVISION OF CORRECTION; OR

23 (II) DIRECT THAT THE CHILD BE PLACED ON PROBATION.

24 (E) (1) IF AN INDIVIDUAL RECEIVES A JUVENILE DISPOSITION AND A
25 SUSPENDED SENTENCE UNDER SUBSECTION (B) OF THIS SECTION, THE COURT
26 SHALL HOLD A HEARING WHEN THE INDIVIDUAL REACHES THE AGE OF 18 YEARS
27 AND MAY:

28 (I) REVOKE THE SUSPENSION AND DIRECT THAT THE INDIVIDUAL
29 BE COMMITTED IMMEDIATELY TO THE CUSTODY OF THE DIVISION OF CORRECTION;

30 (II) DIRECT THAT THE INDIVIDUAL BE PLACED ON PROBATION; OR

31 (III) DIRECT THAT THE INDIVIDUAL REMAIN IN THE CUSTODY OF
32 THE DEPARTMENT OF JUVENILE SERVICES IF THE DEPARTMENT OF JUVENILE
33 SERVICES AGREES WITH THE PLACEMENT.

34 (2) THE DEPARTMENT OF JUVENILE SERVICES SHALL PETITION THE
35 COURT FOR A HEARING BEFORE IT RELEASES A CHILD WHO RECEIVES A JUVENILE

1 DISPOSITION AND A SUSPENDED SENTENCE UNDER SUBSECTION (B) OF THIS
2 SECTION AT ANY TIME BEFORE THE CHILD REACHES THE AGE OF 18 YEARS AND MAY:

3 (I) REVOKE THE SUSPENSION AND DIRECT THAT THE CHILD BE
4 COMMITTED IMMEDIATELY TO THE CUSTODY OF THE DIVISION OF CORRECTION; OR

5 (II) DIRECT THAT THE CHILD BE PLACED ON PROBATION.

6 (3) IF THE SUSPENDED ADULT SENTENCE IS REVOKED, ALL TIME
7 SERVED BY THE CHILD UNDER THE JUVENILE DISPOSITION SHALL BE CREDITED
8 TOWARD THE ADULT CRIMINAL SENTENCE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2004.